

REMARKS

Claims 1-27, 29-36, 117-120, and 132-134 were pending, of which claims 20, 21, and 34 were withdrawn. The applicants amend claims 1, 12, and 25. The applicants present the pending claims for examination in view of the amendments and the following remarks.

The pending independent claims are claims 1, 12, and 25.

Independent claim 1 has been amended to replace “the tufts of bristles sized such that multiple tufts of bristles can be placed beside each other in a direction generally orthogonal to the handle,” with “the tufts of bristles sized such that multiple tufts of bristles ~~can be~~ are placed beside each other in a direction generally orthogonal to the handle[.]”¹

Independent claim 12 has been amended to recite “a toothbrush head having a longitudinal axis,” and “the elements of the second group sized such that multiple elements of the second group ~~are can be~~ placed beside each other in a direction generally orthogonal to the longitudinal axis ~~a maximum dimension~~ of the toothbrush head.” Claim 12 has also been amended such that the fifth clause of the claim reads: “wherein each of the elements in the second group is supported for rotation about only one axis and independently rotatable with respect to ~~one another and~~ any other rotatable tooth cleaning element on the toothbrush head[.]”²

Independent claim 25 has been amended to recite “

a toothbrush head having a longitudinal axis; and
a plurality of tufts of bristles extending from the head, each tuft of bristles being supported for rotation about only one axis, each tuft of bristles being rotatable independent of all other rotatable tuft(s) of bristles on the toothbrush head, the tufts of bristles sized such that multiple tufts of bristles ~~can be~~ are placed beside each other in a direction generally orthogonal to the longitudinal axis ~~a maximum dimension~~ of the toothbrush head,”³

Support for these amendments is clear from the figures.⁴

¹ Annotated to indicate amendments relative to the claims presented in the last response.

² Annotated to indicate amendments relative to the claims presented in the last response.

³ Annotated to indicate amendments relative to the claims presented in the last response.

⁴ See, e.g., Figure 1.

Form of Claim Amendments

The applicants include a complete listing of the claims above. Further, as required by 37 C.F.R. §§ 1.173(d), the markings to the claims showing changes are relative to the earlier issued patent. To comply with 37 C.F.R. § 1.173(b)(2), the applicants have used the suggested language "amended," "twice amended," where appropriate. As used above, a previously presented new claim is indicated as "previously added," and "once amended" if it has been subsequently amended.

Interview Summary

The applicant thanks Examiner Chin for the courtesy of a telephone interview conducted with Sean Dean on October 4, 2010. Claims 1 and 12 were discussed with respect to the pending 35 U.S.C. § 112 rejections. No agreement was reached.

Claim Rejections – 35 USC § 112

Claims 1-19, 22-27, 29-33, 35, 36, 117-120 and 132-134 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim 1

The office action asserted that

In claim 1, lines 4-5, the recitation that multiple tufts of bristles "can be placed" beside each other is not deemed a definitive, positive limitation rendering the scope of the claim unclear. It is suggested to change "can be placed" to --are placed—for completeness.

The applicants do not concede that this assertion is correct but amend claim 1 to delete the language which the examiner objected to.

Accordingly, the applicants ask the examiner to withdraw the rejections of claim 1 and the associated dependent claims under 35 U.S.C. § 112.

Independent claim 12

The office action asserted that

In claim 12, lines 10-11, the recitation that multiple elements of the second group "can be placed" beside each other is not deemed a definitive, positive limitation rendering the scope of the claim unclear. It is suggested to change "can be placed" to -- are placed-- for completeness.

The applicants do not concede that this assertion is correct but amend claim 12 to delete the language which the examiner objected to.

The office action also asserted

Also in claim 12, lines 9-10, the recitation "and any other rotatable tooth cleaning element on the toothbrush head" makes the scope indefinite since it is unclear whether "any other rotatable tooth cleaning element on the toothbrush head" here is referring to those of the second group.

The applicants do not concede that this assertion is correct but amend claim 12 to recite that each of the elements in the second group is supported for rotation about only one axis and independently rotatable with respect to any other rotatable tooth cleaning element on the toothbrush head[.]”

The office action also asserted

Claim 12, lines 11-12, the recitation of "in a direction generally orthogonal to a maximum dimension of the toothbrush head" makes the scope indefinite since reference to a direction generally orthogonal to "a maximum dimension of the toothbrush head" renders the claim vague as to the referencing orientation of such "maximum dimension". In other words, even if a toothbrush head's width is its maximum dimension, the claim is unclear as to what aspect/orientation of this width should be referenced with respect to a "direction generally orthogonal" thereto. In any case, the claims should be generally consistent with that set forth by the original disclosure and should not introduce any new matter or apparent new matter. It is suggested to amend claim 12 in a manner similar to that now recited in claim 1, i.e., "... in a direction generally orthogonal to the handle" for a clear understanding of scope, or in some other manner which is clear in scope.

The applicants do not concede that this assertion is correct. However, to expedite prosecution, the applicants amend claim 12 to recite “a toothbrush head having a longitudinal axis;” and “that multiple elements of the second group are placed beside each other in a direction generally orthogonal to the longitudinal axis of the toothbrush head.”

Accordingly, the applicants ask the examiner to withdraw the rejections of claim 12 and the associated dependent claims under 35 U.S.C. § 112.

Independent claim 25

The office action asserted that

In claim 25, lines 5-6, the recitation that multiple tufts of bristles "can be placed" beside each other is not deemed a definitive, positive limitation rendering the scope of the claim unclear. It is suggested to change "can be placed" to -- are placed-- for completeness.

The applicants do not concede that this assertion is correct but amend claim 25 to delete the language which the examiner objected to.

The office action also asserted that

Claim 25, lines 6-7, the recitation of "in a direction generally orthogonal to a maximum dimension of the toothbrush head" makes the scope indefinite since reference to a direction generally orthogonal to "a maximum dimension of the toothbrush head" renders the claim vague as to the referencing orientation of such "maximum dimension". In other words, even if a toothbrush head's width is its maximum dimension, the claim is unclear as to what aspect/orientation of this width should be referenced with respect to a "direction generally orthogonal" thereto. In any case, the claims should be generally consistent with that set forth by the original disclosure and should not introduce any new matter or apparent new matter. It is suggested to amend claim 12 in a manner similar to that now recited in claim 1, i.e., "... in a direction generally orthogonal to the handle" for a clear understanding of scope, or in some other manner which is clear in scope.

The applicants do not concede that this assertion is correct. However, to expedite prosecution, the applicants amend claim 25 to recite "a toothbrush head having a longitudinal axis;" and "that multiple elements of the second group are placed beside each other in a direction generally orthogonal to the longitudinal axis of the toothbrush head."

Accordingly, the applicants ask the examiner to withdraw the rejections of claim 25 and the associated dependent claims under 35 U.S.C. § 112.

Oath/Declaration

Claims 1-19, 22-27, 29-33, 35, 36, 117-120 and 132-134 were rejected as being based upon a defective reissue oath under 35 U.S.C. 251.

The applicants request that the issue of the reissue oath be held in abeyance until the application is otherwise in condition for allowance.

All of the dependent claims are patentable for at least similar reasons as those for the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicants have (a) addressed certain comments of the examiner does not mean that the applicants concede other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicants concede any of the examiner's positions with respect to that claim or other claims.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 00216-0638001.

Respectfully submitted,

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